

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SOUTHWEST ENVIRONMENTAL CENTER and BORDER NETWORK FOR HUMAN RIGHTS,)	<u>NOTICE OF COMPLETION RE:</u> <u>PLAINTIFF'S AMENDED MOTION</u> <u>FOR PRELIMINARY INJUNCTION</u> <u>(DOC. 11)</u>
<i>Plaintiffs,</i>)	
v.)	
JEFFERSON BEAUREGARD SESSIONS III, in his official capacity as Attorney General of the United States; KIRSTJEN NIELSEN, in her official capacity as Secretary of the U.S. Department of Homeland Security; JAMES N. MATTIS, in his official capacity as Secretary of the U.S. Department of Defense; and ALEX M. AZAR II, in his official capacity as Secretary of the U.S. Department of Health and Human Services.)	2:18-cv-00632-WJ-KRS
<i>Defendants.</i>)	

INTRODUCTION

On July 27, 2018, Plaintiffs filed an amended motion for preliminary injunction. Doc. 11. Under the Local Rules, Defendants were required to file a response by August 14. D.N.M.LR-Civ. 7.4. Defendants filed an unopposed motion to extend the deadline to file a response to Plaintiffs' motion. Doc. 14. Magistrate Judge Kevin R. Sweazea granted Defendants' unopposed motion. Doc. 15. Judge Sweazea's order states:

In light of the parties' agreement as to the relief requested, the Court hereby sets a deadline of August 27, 2018 for Defendants to answer Plaintiffs' amended complaint and respond to Plaintiffs' amended motion for preliminary injunction. Plaintiffs shall file any reply in support of their motion for preliminary injunction on or before September 7, 2018.

Id. (emphasis added).

On August 27, Defendants filed a motion to dismiss Plaintiffs' amended complaint. Doc. 16. Defendants' motion does not separately address Plaintiffs' amended motion for preliminary injunction, and does not address the legal authorities or factual submissions contained therein. Defendants' counsel has informed Plaintiffs' counsel that Defendants do not intend to file a separate response to Plaintiffs' amended motion for preliminary injunction.

Accordingly, Plaintiffs respectfully request that the Court enter an order stating that (1) briefing on the amended motion for preliminary injunction is closed; (2) the amended motion for preliminary injunction will either be denied as moot (if Defendants' motion to dismiss is granted) or treated as unopposed and granted (in the event Defendants' motion to dismiss is denied); and (3) any objection to Plaintiffs' amended motion for preliminary injunction that is not set forth in Defendants' motion to dismiss is hereby waived.

Plaintiffs intend to file a response to Defendants' motion to dismiss by September 7, 2018, and are amenable to allowing Defendants to file a reply in support of this motion within 14 calendar days after service of the response, if they so choose. Consistent with the party's joint request "that a hearing on the Preliminary Injunction be set as soon as possible after the filing" of a reply (Doc. 14 at 2, ¶ 2), Plaintiffs respectfully request that the Court enter an order establishing a hearing date as soon as possible after September 21.

CONCLUSION

Plaintiffs respectfully request that the Court enter an order: (1) stating that briefing on the amended motion for preliminary injunction is closed and any objections to the granting of that motion not set forth in the Defendants' motion to dismiss are waived; and (2) setting a hearing date for consideration of all pending motions in this matter as soon as possible after September 21.

DATED: August 29, 2018

Respectfully submitted,

/s/ David Baake

DAVID R. BAAKE
New Mexico Bar # 150522
275 Downtown Mall
Las Cruces, NM 88001
Telephone: (575) 343-2782
david@baakelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2018, the foregoing Notice was filed on the Court's CM/ECF system, which caused all parties to receive service by electronic mail.

DATED: August 29, 2018

/s/ David Baake